IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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WEDNESDAY, THE TWENTYSEVENTH DAY OF JULY

TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No.16385 OF 2005

Between:

B.Ramalakshmi & Ors. … Petitioners

Versus

The District Collector, Krishna at

Machilipatnam & Ors. … Respondents

Counsel for the Petitioner: Mr.K.RAMESH BABU (526)

Counsel for the Respondent: GOVT.PLEADER FOR REVENUE

O R D E R :

This writ petition is filed to declare the action of the respondents in distributing the patta lands of the petitioners in S.Nos.11, 12/2, 13/2, 14/2, 15, 16/2 in an extent of Acs:38-25 cents situate at Mulakalapally village of Thotlavallur Revenue Mandal, Krishna district, as arbitrary, illegal and consequently direct the respondents to conduct survey after giving notice to the petitioners and protect the patta lands admeasuring Acs:183-08 cents of Mulakalapally village out of which Acs:38-25

cents pertain to them and the said lands of the petitioners are bounded by East:Krishna left Karakatta, West:Krishna river, South: village border of Illuru, North: village border of Madhurapur.

The case of the petitioners is that originally the Nuzvid Zamindar Sri Venkatadri Apparao granted Inam as Sarva Agraharam of Acs:183-08 cents to Sri Suri Krishna Somayajulu in 1167 Fasli of Mulakalapalli village in Krishna district. The grant in Agraharam was confirmed by Inam Commissioner in the year 1859 and title deed no.158 was issued to Agraharamdars. Ever since, the grantee Suri Krishna Somayajulu and his successors are in possession and enjoyment of Agraharam lands. Later in the year 1948 Sri Suri Krishna Somayajulu and his eleven successors sold an extent of Acs:25-63 cents under registered two sale deeds bearing Doc.Nos.669/19948 and 670/1948 in the Office of the Sub-Registrar, Vuyyuru, Krishna district in favour of Sri Suri Venkateswarlu and 36 others of Mulakalapally village. They sold an extent of Acs:12-10 cents in old survey nos. 37, 38, 39 and 40 of Mulakalapally village under Doc.No.1377 of 1950. The said 37 small farmers, who purchased the lands, are in continuous possession and peaceful enjoyment over the property since then.

Further the Telaprolu Zamindar raised a dispute over some of the lands of Mulakalapally village and the matter went upto courts in OS.No.41 of 1945 on the file of the Court of Subordinate Judge, Machilipatnam and ultimately the matter has become final by judgment dated 29-11-1947.

Now the petitioners are small and marginal farmers, among them, the petitioners 1 to 12 purchased lands under registered sale deed, each an extent of Acs:1-09 cents,

admeasuring Acs:32-07 cents. The petitioners 13 to 16 retained an extent of Acs:5-55 cents of ancestral lands and the lands are situated in new sy.nos.11, 12/2, 13/7, 14/2, 15 and 16/2 of Mulakalapally village in an extent of Acs:38-25 cents and the same is classified as dry lands. The petitioners raised the crops and are paying cists to the Government promptly and the revenue records reveal that the petitioners are in possession and enjoyment over the said lands.

While things stood thus, the respondents 3 and 4 came to the village and planted flags in the patta lands earmarking the same to distribute among the landless poor persons during 15th August, 2005 i.e., Independence Day Ceremony. Further, the respondents have not conducted any survey nor issued any notice or any opportunity of hearing the petitioners. The respondents are bound to survey the lands first by issuing prior notice to the petitioners and they have to segregate the said extent of Acs:38-25 cents land of Lanka Bhomi bounded (E) on the side of left Karakatta, West: River Krishna, South: Iluru village Border, North: Madhurapur village border and if any Government land is available then only the respondents have to distribute the Government land to the landless persons. The petitioners therefore filed this writ petition to declare the declare the action of the respondents in distributing the patta lands of the petitioners in S.Nos.11, 12/2, 13/2, 14/2, 15, 16/2 in an extent of Acs:38-25 cents situate at Mulakalapally village of Thotlavallur Revenue Mandal, Krishna district, as arbitrary, illegal and consequently direct the respondents to conduct survey after giving notice to the petitioners and protect the patta lands admeasuring Acs:183-08 cents of Mulakalapally village out of which Acs:38-25 cents pertain to them.

Considering the facts and circumstances of the case, without going into merits or otherwise, I deem it appropriate to direct the respondents to follow due process of law before contemplating any action of dispossession/distribution of the land among the landless poor etc., and further the respondents are directed to conduct survey of patta lands admeasuring Acs:183-08 cents of Mulakalapally village out of which Acs:38-25 cents by issuing notice to the petitioners within eight weeks from the date of receipt of a copy of this order, and till such time, there shall be interim stay of distribution of patta lands of Mulakalapally village on the ground that an extent of Acs:38-25 cents of lands belongs to the petitioners are bounded by East:Krishna left Karakatta, West:Krishna river, South: village border of Illuru, North: village border of Madhurapur.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

JULY 27, 2005. ----------

I S L. ELIPE DHARMA RAO , J.